

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TRAVELERS CASUALTY AND SURETY
COMPANY as Administrator for RELIANCE
INSURANCE COMPANY,

Plaintiff,

vs

THE DORMITORY AUTHORITY OF THE STATE
OF NEW YORK, TDX CONSTRUCTION CORP. and
KOHN, PEDERSON, FOX & ASSOCIATES, P.C.,

Defendants.

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DORMITORY AUTHORITY OF THE STATE OF
NEW YORK,

Third-Party Plaintiff,

vs

TRATAROS CONSTRUCTION, INC. and TRAVELERS
CASUALTY AND SURETY COMPANY,

Third-Party Defendants.

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TRATAROS CONSTRUCTION, INC. and TRAVELERS
CASUALTY AND SURETY COMPANY,

Fourth-Party Plaintiffs,

vs

CAROLINA CASUALTY INSURANCE COMPANY,
BARTEC INDUSTRIES, INC., DAYTON SUPERIOR
SPECIALTY CHEMICAL CORP., SPECIALTY
CONSTRUCTION BRANDS, INC. t/a TEC,
KEMPER CASUALTY INSURANCE COMPANY
d/b/a KEMPER INSURANCE COMPANY, GREAT
AMERICAN INSURANCE COMPANY, NATIONAL
UNION FIRE INSURANCE COMPANY OF
PITTSBURGH, PA., UNITED STATES FIRE
INSURANCE COMPANY, ALLIED WORLD
ASSURANCE COMPANY (U.S.) INC. f/k/a/
COMMERCIAL UNDERWRITERS INSURANCE
COMPANY, ZURICH AMERICAN INSURANCE
COMPANY d/b/a ZURICH INSURANCE COMPANY,
OHIO CASUALTY INSURANCE COMPANY d/b/a
OHIO CASUALTY GROUP, HARLEYSVILLE
MUTUAL INSURANCE COMPANY (a/k/a
HARLEYSVILLE INSURANCE COMPANY,
JOHN DOES 1-20 and XYZ CORPS. 1-20

Fourth-Party Defendants.

-----X

Civil Action No. 07-CV-6915(DLC)
EFC CASE

**AFFIDAVIT OF DONALD G.
SWEETMAN IN SUPPORT OF GREAT
AMERICAN INSURANCE COMPANY
AND ITS AFFILIATES' MOTION FOR
SUMMARY JUDGMENT**

STATE OF NEW JERSEY)
)
COUNTY OF MORRIS)

I, Donald G Sweetman, of full age, upon my oath depose and say:

1. I am a partner in the law firm of Gennet, Kallmann, Antin & Robinson, P.C., attorneys for fourth party defendant, Great American Insurance Company in connection with this matter. I am an attorney at law duly admitted to practice before this Court and am fully familiar with the facts set forth herein.

2. I submit the within Affidavit in support of Great American Insurance Company's motion for summary judgment pursuant to Federal Rule of Civil Procedure 56.

3. A true and correct copy of the Answer of GM Crocetti to the Amended Fourth Party Complaint, dated June 3, 2005, and filed in the 2004 action, is annexed hereto as Exhibit B.

4. A true and correct copy of the letter dated March 7, 2003 from TDX Construction Corp. (TDX) to Trataros containing an expert report revealing extensive debonding of the terrazzo system is annexed hereto as Exhibit C.

5. A true and correct copy of a June 17, 2003 letter from TDX to DASNY regarding investigations and analysis performed by three different firms with respect to the alleged failure of the terrazzo system is annexed hereto as Exhibit D.

6. A true and correct copy of the letter dated August 28, 2003 from TDX to DASNY noting hazardous conditions due to the deficiencies in the terrazzo flooring and underlayment at Baruch College is annexed hereto as Exhibit E.

7. A true and correct copy of the Complaint filed on June 28, 2004 is annexed here as Exhibit F.

8. A true and correct copy of the Third Party Complaint filed by DASNY on or about August 4, 2004 is annexed hereto as Exhibit G.

9. A true and correct copy of the Amended Fourth Party Summons and the Amended

Fourth Party Complaint and Crossclaims dated February 17, 2005 is annexed hereto as Exhibit H.

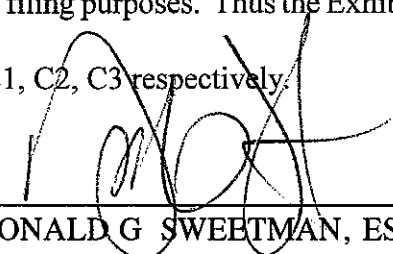
10. A true and correct copy of Great American Insurance Company's Answer to the Amended Complaint filed on or about April 8, 2004 is annexed hereto as Exhibit I.

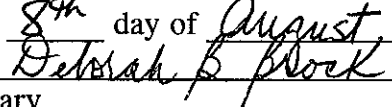
11. A true and correct copy of the Stipulation of Dismissal without prejudice filed on October 7, 2005 by the parties to the 2004 action is annexed hereto as Exhibit J.

12. A true and correct copy of the Fourth Party Complaint filed by Trataros on November 14, 2007 is annexed hereto as Exhibit K.

13. Attached hereto as Exhibit L is a true and correct copy of correspondence I received from counsel for Travelers/Trataros regarding the assertion of a claim under American Alliance Insurance Company's policy TEP 3 57 81 21 00.

14. Submitted in connection with Great American's motion is an Affidavit of Josh Schaad, Divisional Vice President of Property and Inland Marine Claims of the Great American Insurance Company. Due to the size of the exhibits A, B, C and D to his Affidavit, they had to be broken up into smaller documents for electronic filing purposes. Thus the Exhibits A, B and C have been designated A1, A2, A3, B1, B2, B3 and C1, C2, C3 respectively.


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Attorneys for Defendant Great American Ins. Co.
Our file No: 05-6698:35/53-S

Sworn to and Subscribed before me on
this 8th day of August, 2008

Notary

DEBORAH B. BROCK
A Notary Public of New Jersey
My Commission Expires May 13, 2009